IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY THIRD DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO.12855 of 2004

Between:

M/s.M.S.Constructions, A Registered partnership firm having its Head office at: Danavaipeta, Rajamundry-533 103, having their business at.
D.No.11-2-16/9, Basapalla Layout, Visakhapatnam, rep.by its Managing Partner Sri.Medapati Satyanarayana Reddy, S/o.Krishna Reddy, Hindu, aged about 52 years.

..... PETITIONER

AND

1 The Prl.Secretary, T.R. & B Dept.,(N.H), Govt. of A.P. Secretariat,

Hyderabad-500 022.
2 The Engineer-in-Chief (R&B), National High Way, A.P.Errumanzil,

Hyderabad-500082.
3 The Suptd.Engineer (R&B), NH Circle, Vizianagaram.
4 The Executive Engineer (R&B), National High Way Divison,

Visakhapatnam-530 018.
5 Regional Officer, National High Ways, Ministry of Roads,

Transport & Buildings, 3rd floor,
NH Building, Erramanzil, Hyderabad.

6. Project Director/General Manager, Warangal, High Way Authority of

India, Visakhapatnam.

(R.6 is impleaded as per Court order dated 23-9-2004 in

W.P.M.P.No.20910 of 2004)

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of Mandamus, or any other appropriate writ, order or direction directing the respondents to release the due amount of Rs.3,34,437/- within a specified time.

Counsel for the Petitioner: MR.T.P.ACHARYA, Advocate.

Counsel for Respondents No.1 to 4: GP FOR ROADS & BUILDINGS

Counsel for Respondent No.5. Mr.S.Niranjan Reddy,

Counsel for Respondent No.6. Mr.S.S.Varma

The Court at the stage of admission made the following:-

O R D E R:

The petitioner is a Special Class Contractor doing civil contract works. It was awarded a contract work for providing periodical renewals in the reach from K.M.70/0 to 72/0 and 82/0 to 83/0 of V.B.SECTION, N.H.5 under an agreement recovered by C.R.No.55/2000/2001, dated 19-1-2001 for a sum of Rs.29,17,871/-. In pursuance of the said agreement, the petitioner completed the work in June, 2001 and it was cheque measured and recorded in M.Book Nos.2003.D and 2004.D. The petitioner is entitled to get the final bill in June, 2001 itself. A sum of Rs.3,34,437/- is the balance amount payable to him. He issued a legal notice on 16-9-2002 to respondent No. 3 and 4. In response to the said legal notice; the 4th respondent addressed a letter on 22-10-2002 to the petitioner's counsel stating that the payment will be arranged as soon as they receive funds from the National High Way Authority of India, New Delhi. But so far the payment has not been made. The petitioner therefore, approached this Court, seeking a direction to the respondents to release the amount due to it within a specified time. The respondents No.1 and 4 are not disputing the claim of the petitioner, but they are unable to make payment due to non-receipt of the amount from the National High Way Authority of India, New Delhi. Since the petitioner is contending that the cheque measurement was recorded by the respondents No.3 and 4, there shall not be any objection to arrange payment of the amount due to the petitioner and they cannot postpone the payment indefinitely.

The respondents No.3 and 4 are therefore, directed to secure the funds and release them infavour of the petitioner within two months from the date of receipt of this order. The second respondent shall on the request of the respondents No.3 and

4 release the necessary funds for arranging payment to the petitioner within the time stipulated by this Court.

Accordingly, the Writ Petition is disposed of. No order as to costs.

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23rd September 2004.

Note:CC in Three days.

B/O

Mrb

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Prl.Secretary, T.R. & B Dept.,(N.H), Govt. of A.P. Secretariat,

Hyderabad.
2 The Engineer-in-Chief (R&B), National High Way, A.P.Errumanzil,

Hyderabad.
3 The Suptd.Engineer (R&B), NH Circle, Vizianagaram.
4 The Executive Engineer (R&B), National High Way Divison,

Visakhapatnam.
5 Regional Officer, National High Ways, Ministry of Roads,

Transport & Buildings, 3rd floor,
NH Building, Erramanzil, Hyderabad.

6. Two CC to GP FOR ROADS & BUILDINGS, High Court Buildings,

Hyderabad (OUT)

7. Two CD copies